

MINUTES
REGULAR PLANNING COMMISSION MEETING
CITY COUNCIL CHAMBERS
1 CIVIC CENTER DRIVE
SAN MARCOS, CALIFORNIA
MONDAY, APRIL 1, 2013 - 6:30 PM

CALL TO ORDER

At 6:30 p.m. Chairman Nelson called the meeting to order.

PLEDGE OF ALLEGIANCE

Commissioner Flodine led the Pledge of Allegiance to the Flag.

ROLL CALL

The Secretary called the roll:

PRESENT: COMMISSIONERS: FLODINE, JONES, KILDOO, MAAS, MINNERY, NELSON

ALTERNATE COMMISSIONERS IN AUDIENCE: None

ABSENT: CHINN, NORRIS & SCHAIBLE

Also present were: Planning Division Director, Jerry Backoff; Assistant Planner, Sean del Solar; Office Specialist III, Lisa Kiss; Deputy City Attorney, Jim Lough

ORAL AND WRITTEN COMMUNICATIONS

None.

CONSENT CALENDAR

1. APPROVAL OF MINUTES, 2/4/13 & 2/21/13

Action:

COMMISSIONER JONES MOVED TO APPROVE CONSENT CALENDAR AS PRESENTED; SECONDED BY COMMISSIONER MINNERY AND CARRIED BY A UNANIMOUS VOTE.

AGENDA ITEM
1

PUBLIC HEARINGS

2. **Case No:** CUP 12-002 (P12-0024)

Application of: Nattiya's Thai Northern Spirits

Request: A Conditional Use Permit to allow live entertainment at an eating and drinking establishment in the San Marcos Creek Specific Plan Area (SPA).

Location of Property: 727 W. San Marcos Blvd., #115, 116 & 117, more particularly described as: Parcel C of Parcel Map No. 14531, in the City of San Marcos, County of San Diego, State of California as filed in the Office of the County Recorder of San Diego, on October 30, 1986. Assessor's Parcel No.: 219-270-63.

Staff Presentation (Sean del Solar):

Described request and location. PowerPoint presentation shown. Site is 3.45 acres and already developed with a shopping center. Applicant operates a 3,800 s.f. suite that recently went through an expansion. A major CUP is required for live entertainment at an eating & drinking establishment in the Creek District Specific Plan. Parking is sufficient with approximately 219 existing parking spaces on site. Hours of entertainment are limited to no earlier than 3 PM and on Sun.-Wed. until 10 PM, Thur., until 12:00 AM and Fri. & Sat. until 1:00 AM. Applicant must modify state ABC license to allow live entertainment. Staff recommends approval for a 5-year term. Applicant and their representative are present.

Kildoo: Asked about condition #D.9., and why they can't use a paid promoter?

Backoff: Aftermath of Jumping Turtle. The promotional opportunities charged a fee at the door and brought in a different clientele. Staff wanted to keep this more related to a restaurant type use and not a nightclub.

Kildoo: Saw condition stating no cover charge, not sure why both are there?
Sometimes it's easier to use a promoter.

Backoff: Found that promoters get different venues and clientele.

del Solar: It's also consistent with other CUP's for this type of entertainment, which is ancillary to eating establishments and entertainment licenses the City has issued.

Kildoo: Asked about Canapé's and whether they had same condition in their CUP when they were open?

del Solar: They had an entertainment license, subsequently, there was a CUP adopted for Restaurant Row area. If Nattiya's were outside the Creek District, it would be an entertainment license.

Backoff: Didn't want to set precedence in Creek District where there's potential for more nighttime entertainment.

OPEN PUBLIC HEARING

Randy Walton, Applicant's representative: Nattiya's has supplied world class Thai food for the last decade. It's more a piano bar than a nightclub. The space is very small and the music she intends to have is ambient piano music. There would be no promoters or anyone manning a door. It's a place for a cocktail and light background music. It's located next door to Denny's and Jack in the Box. She does a magnificent job decorating, maintaining the restaurant and provides outstanding food. Commented that City staff has been responsive and open to modifications. Agree with conditions, except they'd like two more hours on Sunday, until midnight. It's one of her busiest nights. Kitchen is open until 1 AM on Sunday. Don't believe it would be an imposition on neighbors.

Flodine: Commented that he stopped by restaurant and the lounge is beautiful. He noticed two different closing hours posted on doors?

Walton: Under terms of permit, the kitchen must be open at all times the lounge is open.

Nattiya/Applicant: Indicated it's the same hours for both at all times. The sign is old.

Minnery: Asked staff the reason for ending at 10 pm on Sunday?

del Solar: City establishes quiet hours in ordinance and 10 PM is cutoff point. Two or three nights of extended hours are consistent with other CUP/entertainment permits in the City. We swapped Sunday for Thursday.

Backoff: Staff felt more demand on Thursday but is open to switching it.

Jones: Asked if the issue is total hours? Why give up Thursday to allow Sunday? What is the logic?

del Solar: From City's perspective, trying to keep it consistent with all businesses City-wide. This is an ancillary use.

Jones: Commented that he's still confused.

Backoff: It's a case-by-case determination. Application came in and it was for three nights. They later requested four nights. Staff thought Thursday would be busier than Sunday, but Staff doesn't have a problem allowing it.

Flodine: City's noise ordinance generally prohibits amplified music after 10 PM. You have to look at the nearest residential and today, that is pretty far away. Indicated he can't see harm in allowing them to go to midnight on Sunday if there's no amplifying equipment.

Backoff: Correct. There was sensitivity at the old Boulevard with amplified music that was heard in Discovery Hills. Music here is inside.

Kildoo: There are plenty of conditions relating to complaint driven oversight by staff. Indicated he's fine with additional Sunday hours.

CLOSE PUBLIC HEARING

Action:

COMMISSIONER KILDOO MOVED TO APPROVE CUP 12-002 (P12-0024) AS SET FORTH IN RESOLUTION PC 13-4338 WITH MODIFICATIONS: #D.7. TABLE:
(1st line) Sunday, Monday, Tuesday and Wednesday 3:00 PM to 10:00 PM, (2nd line)
Sunday and Thursday 3:00 PM to 12:00 AM, (3rd line) Friday and Saturday 3:00 PM to 1:00 AM; SECONDED BY COMMISSIONER FLODINE AND CARRIED BY THE FOLLOWING ELECTRONIC VOTE;

AYES: COMMISSIONERS: FLODINE, JONES, KILDOO, MAAS, MINNERY, NELSON

NOES: COMMISSIONERS: NONE

ABSENT: COMMISSIONERS: NORRIS

ABSTAIN: COMMISSIONERS: NONE

PLANNING DIRECTOR COMMENTS

Backoff: Commissioners were given a copy of the letter from State of CA, Department of Housing and Community Development (HCD). The letter signifies a major milestone in the Housing Element update, which staff briefed Commission on. HCD finds the draft Housing Element in compliance with the state housing law. City will then go through Planning Commission and City Council hearings and if all goes well, the State will look at the "FINAL" document and certify the Housing Element.

PLANNING COMMISSIONERS COMMENTS

Nelson: Asked what happens to CUP's if Creek is never built? Does the Specific Plan go away?

Backoff: There still is a Creek District SP. Future development will have to comply. City has three projects in process right now.

ADJOURNMENT

At 6 52 p.m. Chairman Nelson adjourned the meeting.

Dean Nelson, Chairman
SAN MARCOS PLANNING COMMISSION

ATTEST:

Lisa Kiss, Office Specialist III
SAN MARCOS PLANNING COMMISSION